IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3298 OF 2004

Sakharam Darku Jadhav ..Petitioner.

Versus

Shri Manohar Baban Jadhav & Ors. ..Respondents.

Mr. B.G.Tanksali & M.B. Gawade for the Petitioner.

Mr. L.H. Hingu for the Respondent Nos. 1 to 6.

Mr. A.H. Palekar, AGP for Respondent Nos. 7 & 8.

CORAM : S. A. BOBDE, J.

DATED : 30TH AUGUST, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr. Hingu, learned Advocate waives service of rule for respondents 1 to 6 and Mr. Palekar, AGP waives service of rule for respondents 7 and 8.

Heard by consent.

2. The petitioner has challenged the order of the Principal Secretary and Officer on Special Duty

(Appeals), Revenue and Forests Department of the State dated 1st March, 2004 in revision under section 35 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947; hereinafter referred to as the 'Act'. The petitioner is an uncle of respondents Nos.1 to 6.

3. A consolidation scheme was implemented in respect of Gat Nos. 2233, 2250,2251,2291, 2294 and 2288 in the year 1972. This was on the basis of consent terms recorded on 25.09.1971 and 14.10.1971 between the petitioner and his brother Baban Darku Jadhav, who was the father of respondent Nos. 1 to 5. This scheme came into effect in March, 1972.

4. Some time in 1998, after a period of 26 years, the petitioner claimed that the Consolidation Scheme should be amended on the ground that he had got one hectare 11 ares less than what was due to him. It appears that the petitioner some how persuaded the Deputy Director of the Land Records to re-open the entire scheme under section 32(1) of the Act.

5. Against the order of the Dy. Director of the Land Records, the respondents preferred a revision

application under section 35 of the Act. The Principal Secretary, who decided the revision, has revised the order of the Dy. Director of the Land Records mainly on two grounds; both of which are in my view sustainable.

6. Firstly, the learned revisional authority has come to the conclusion that the Consolidation Scheme was based on the consent statements of the present petitioner and his brother Baban Darku Jadhav, who is the father of the respondents 1 to 5. Secondly, the revisional authority has come to the conclusion that the application for amending the scheme is undoubtedly delayed since it is made after a period of 26 years. As observed earlier, both these reasons are good in law. I see no error of law apparent on the face of the impugned order.

7. Petition dismissed. Rule is, therefore, discharged.

DT.30.08.05 (S.A.BOBDE,J)

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